IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 7078 of 1997

Between:

1 A. Chinna Venkatappa S/o. late A.Venkataramana
R/o.Harijanawada, Melupatla Village,
Punganur Mandal, Chittoor Dist.
2 Thoti Venkatappa S/o. late Thoti Errappa
R/o. Harijanawada, Melupatla,
Punganur mandal, Chittoor Dist.

... PETITIONERS

AND

1 The Government of A.P., rep. by secretary, revenue (Endts.)
Department, Secretariat, Hyderabad.
2 The District Collector (LAO), Madanapalli, Chittoor Dist.
3 The Sub-Collector (LAO), Madanapalli, Chittoor Dist.
4 The Mandal Revenue Officer, Punganur, Chittoor Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of Mandamus, holding that the G.O.Ms.No. 456, Revenue (Endts.II) Department, Dt.29-9-1995, as illegal, invalid and unconstitutional and consequently declare the action of the respondents in acquiring Ac.4.62 cents of land comprised in S.No.115/1 of Melupatla Village, Punganur Mandal, Chittoor Dist., belonging to Sri. Chowdeswami Temple, which is in possession of the petitioners as tenants, as arbitrary, illegal and contrary to the guide lines issued by the Government.

Counsel for the Petitioners: MR.R.RAMACHANDRA REDDY
Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus holding that the G.O.Ms.No.456, Revenue (Endts.II) Department, dated 29-09-1995, as illegal, invalid and unconstitutional and consequently for a declaration that the action of the respondents in acquiring Ac.4.62 cents of land comprised in S.No.115/1 of Melupatla Village, Punganur Mandal, Chittoor District, belonging to Sri Chowdeswami Temple, which is in possession of the petitioners as tenants, as arbitrary and illegal.

2. Heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

3. Petitioners claim that an extent of Ac.4.62 cents in S.No.115/1 of Melupatla Village, Punganur Mandal, Chittoor District is an Inam land belonging to Sri Chowdeswami Temple, situated in Melupatla Village. It is their case that out of the said Ac.4.62 cents, an extent of Ac.2.00 cents was leased out to the first petitioner, by erstwhile Trust Board in the year 1985 for a period of three years; likewise an extent of Ac.2.62 cents was leased out to the second petitioner. It is stated that the said lease was renewed from time to time and the petitioners had been in possession and enjoyment of the land in question. While things stood thus, it is alleged that petitioners came to know that the Government has initiated to acquire the property, which is in the petitioners' occupation for providing house sites to weaker sections, by initiating Land Acquisition proceedings. Thereafter, petitioners are said to have approached the fourth respondent, but the fourth respondent expressed his inability as the notification had already been issued. It is the case of the petitioners that according to the guidelines issued by the Government, the

respondents 2 to 4 have no authority to acquire their lands. It is further their case that the Government, in its Memo No.1287/C1/74-2, dated 31-05-1974 and No.3273/C1/76-2, dated
20-07-1976 has directed the Collector and Land Acquisition Officers not to acquire the lands of small farmers. It is further stated that the authorities have dispensed with Section 5 (a) enquiry, however the petitioners are still in possession of the land in question. The respondents are trying to acquire the lands in question, without following due process of law, hence, the present writ petition.

3. Learned Government Pleader, while denying the allegations made by the petitioner, submitted that the subject matter in this writ petition is squarely covered by a judgment of this Court in **Kona Venkanna V. District Collector, Kakinada ,** wherein the writ petition filed by the petitioner was dismissed by this Court holding that acquisition of temple land under lease given for agricultural purposes is a policy decision taken by the Government to provide house sites to weaker sections and the acquisition is sought to be made invoking urgency clause under Section 17 and dispensing with enquiry under Section 5-A of the Act and the tenant opposing that his land only is being acquired without application of mind at the instance of Sarpanch of Gram Panchayat who is inimical to him and that there was no urgency, is neither pleaded nor demonstrated by supporting evidence and the tenant cannot claim better rights than his lessor, the temple. The tenant, being in possession, can claim only his share of compensation that may be awarded, but cannot question the acquisition. So, the tenant cannot therefore have any grievance for not issuing any notice to him.

4. Recording the above submission made by the learned Government Pleader, and following the ratio in the aforementioned judgment, this writ petition is also dismissed for similar reasons. No order as to costs.

N.V. RAMANA, J

March 14, 2005

MRR/tvk

Copy to:

1 The Secretary, Revenue (Endts.) Department, Government of

A.P., Secretariat, Hyderabad.
2 The District Collector (LAO), Madanapalli, Chittoor Dist.
3 The Sub-Collector (LAO), Madanapalli, Chittoor Dist.
4 The Mandal Revenue Officer, Punganur, Chittoor Dist.

5 2 CCs to G.P. for Social Welfare, High Court Buildings, Hyderabad. (OUT

2 CD copies.

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